

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Franklin D. Allen, et al.,	:	Case No. 3:04 CV 7156
Plaintiffs,	:	
vs.	:	<b>MEMORANDUM DECISION AND ORDER</b>
Keystone Equipment Finance Corp., et al.,	:	
Defendants.	:	

The parties have consented to have the undersigned Magistrate enter final judgment in this diversity property damage case. For the reasons that follow, the court, *sua sponte*, dismisses this case for lack of prosecution.

**FACTUAL BACKGROUND**

This lawsuit seeking monetary damages for plaintiffs' alleged negligent storage of property was filed on 3/29/04. The complaint alleges that defendants' repossessed plaintiffs' vehicle without prior notice and failed to return personal property stored in the vehicle (Docket No. 1, Paragraphs 6 - 13). Answers were filed by both defendants by 12/28/04. A Case Management Conference, scheduled for 2/10/05 and then continued to 2/23/05, did not actually proceed.

This court was notified by defendants' counsel that plaintiff's counsel had passed away on 2/12/05. On 5/19/05 a letter was sent by regular mail to Plaintiffs Mr. And Mrs. Franklin D. Allen and advised that unless they contact this court, dismissal of their case would occur; however, the letter was returned on 6/3/05. After obtaining a later address for plaintiffs, the court re-sent the same letter on 6/7/05 by certified mail, return receipt requested. On 6/11/05 the green card indicating receipt of certified mail, was signed for by Mrs. Allen on 6/11/05. No response has been forthcoming to date from the plaintiffs.

**CONCLUSION**

For the foregoing reasons, the court hereby dismisses this case for lack of prosecution pursuant to Fed.R.Civ.P. 41(b).

**SO ORDERED.**

/s/ Vernelis K. Armstrong  
Vernelis K. Armstrong  
United States Magistrate Judge